

Craig A Francisco
King and Spalding - Pro Bono

January 29, 2025

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4 UNITED STATES DISTRICT COURT
5 FOR THE DISTRICT OF NEW HAMPSHIRE
6 CIVIL ACTION NO. 1:24-cv-41

7 GRACE NEW ENGLAND; and PASTOR)
8 HOWARD KALOOGIAN,)
9 Plaintiffs,)
10 vs.)
11 TOWN OF WEARE, NEW HAMPSHIRE;)
12 TONY SAWYER, in his individual)
13 and official capacities; and)
14 CRAIG FRANCISCO, in his individual)
15 and official capacities,)
16 Defendants.)
17 _____)

18 DEPOSITION CRAIG A. FRANCISCO,
19 called as a witness by and on behalf of the
20 Plaintiffs, pursuant to the applicable provisions
21 of the Federal Rules of Civil Procedure, before P.
22 Jodi Ohnemus, RPR, RMR, CRR, CA-CSR #13192, NH-LSR
23 #91, and MA-CSR #123193, at Gallagher Callahan &
24 Gartrell, 214 N. Main Street, Concord, New
25 Hampshire, on Wednesday, 29 January, 2025,
commencing at 12:32 p.m.

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1 New Hampshire Municipal Association's view of --

2 A. Oh, quite a bit.

3 Q. Quite a bit?

4 A. Yeah.

5 Q. Okay. So I would like you to turn to page
6 24 of this document. Okay. I think you can see
7 that this is about the statute we've been talking
8 about.

9 Is that fair to say?

10 A. Yes.

11 Q. So I guess it's fair to say that in
12 October 2023 that this was an issue that was
13 highlighted by the New Hampshire Municipal
14 Association to -- to all of the municipalities in
15 New Hampshire?

16 A. I wouldn't say issue.

17 Q. Well, it changed the law, let's say --

18 A. Okay.

19 Q. -- a new law?

20 A. Okay. Yes.

21 Q. And if you read this -- it's not a memory
22 test, but does this appear to be the statutory
23 language that we talked about before?

24 A. Yes. Appears to be.

25 Q. Okay. Let's turn to page 25. And feel

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1 free to take a moment to read that.

2 A. (Witness reviews document.)

3 Q. Let me know when you've had a chance to
4 fully read it.

5 A. (Witness reviews document.) Okay.

6 Q. So based on this do you think -- is it
7 fair to say that the view of this organization --
8 the -- the New Hampshire Municipal Association --
9 that their view is that under this RSA 674:76, what
10 it means is that, when presented with a proposal
11 for a primary religious purpose, regulation is
12 dramatically constrained?

13 Do you think that's a fair summary?

14 A. That's what it says.

15 Q. Yeah. Do you agree or disagree with that
16 view of the statute?

17 A. I think this piece of paper says exactly
18 what I've been saying the whole time -- if you look
19 down at the bottom line.

20 Q. Uh-huh. How so?

21 A. Driveway permit, septic standards still
22 apply. Safety regulations continue to apply for
23 driveway permit, septic standards, etcetera, just
24 like it says here. Like I've been saying all day.

25 Q. Yeah. Okay. And is driveway -- is a

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1 driveway permit -- I guess, is that something that
2 goes through the zoning code, or is that a building
3 code issue where you get a building code permit?

4 A. There is a chapter in the zoning ordinance
5 that states what is required to get a driveway
6 permit. It goes to the building inspector. I
7 believe it's the building inspector. Does not go
8 to the planning board.

9 Q. Okay.

10 A. Can I ask a dumb question?

11 Q. I'll try.

12 A. Since I've been saying for a year and a
13 half or so that the only thing I'm worried about is
14 septic standard, driveway permits, and parking, and
15 this says right here that those regulations still
16 apply, why are we here? 'Cause I could have done a
17 site plan for this place for less than 5 grand, and
18 I know this is costing a lot more than that.

19 Q. Fair question.

20 A. You're not going to answer my question,
21 are you?

22 Q. Why do you --

23 MS. GOERING: I will interject here --

24 THE WITNESS: I'm very frustrated. Can
25 you tell?

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1 C E R T I F I C A T E
2

3 I, CRAIG A. FRANCISCO, do hereby
4 certify that I have read the foregoing transcript
5 of my testimony and further certify that said
6 transcript (with/without) suggested corrections is
7 a true and accurate record of said testimony.

8
9 Dated this 7th day of February, 2025.
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15 CRAIG A. FRANCISCO
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1 C E R T I F I C A T E
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I, Patricia Jodi Ohnemus, a Licensed
Shorthand Reporter for the State of New Hampshire,
do hereby certify that the foregoing is a true and
accurate transcript of my stenographic notes of the
proceeding taken at the place and on the date
hereinbefore set forth to the best of my skill and
ability under the conditions present at the time.

I further certify that I am neither
attorney or counsel for, nor related to or employed
by any of the parties to the action in which this
proceeding was taken, and further that I am not a
relative or employee of any attorney or counsel
employed in this case, nor am I financially
interested in this action.

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- 15 X Reading and Signing was requested.
16 Reading and Signing was waived.
17 Reading and Signing was not requested.



19 Patricia Jodi Ohnemus
20 LCR #91, CA-CSR #13192,
21 MA-CSR #123193, RMR, RPR, CRR
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